

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 3: Rio Cebolla

**MOTION FOR ORDER MAKING FINAL DETERMINATION OF PRIORITY DATES
IN THE RIO CEBOLLA SUBSECTION
OF SECTION 3 OF THE RIO CHAMA STREAM SYSTEM**

Plaintiff State of New Mexico, *ex rel.* State Engineer ("State"), respectfully requests the Court to enter an Order making a final determination of priority dates in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System ("Cebolla Subsection"). In support of this motion, Plaintiff states as follows:

1. Pursuant to the September 11, 2017 *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System* (Doc. 11280, p.6), "[i]n the absence of an objection to the priority dates proposed by the State, the Court will enter a final order with respect to priority dates of all irrigation water rights in the Cebolla Subsection."
2. There is now an absence of any objections to the priority dates proposed by the State for all irrigation water rights in the Cebolla Subsection.
3. In December of 2017, three objections to the State's proposed priority dates for the

Cebolla Subsection were timely filed. Each of these objections has now been addressed.

A. On December 4, 2017, an objection was filed by Defendant Petra Jimenez Maes (Subfile No. CHCB-001-0001F) on her own and others' behalf (Doc. 11308). That objection has since been withdrawn, and Defendant Petra J. Maes is now in agreement with the State as to the priority dates proposed by the State for the Cebolla Subsection. *See Notice of Stipulation and Withdrawal of Objection and Response to Notice and Order to Show Cause in Subfile No. CHCB-001-0001F* (Docs. 11361 and 11361-1, filed 07/05/18).

B. On December 11, 2017, an objection was filed by Defendants Charlie Chacon and Geralda M. Chacon ("the Chacons," Subfile Nos. CHCB-001-0007, CHCB-002-0001A, CHCB-002-0001B, CHCB-002-0009, Doc. 11310). The Chacons objected to the State's proposed priority dates for surface water irrigation rights under the private Sanchez Ditch.

On December 12, 2017, the State filed a motion to dismiss the Chacons' objection to the determination of the priority date for their own water rights under the Sanchez Ditch (Doc. 11313). The State's motion was granted. *See Order Overruling Objection to Proposed Priority Date* (Doc. 11336, filed 03/27/18).

While, in its Order, the Court made clear that the Chacons could not object to the priority date for their own water rights under the Sanchez Ditch, the Court left room for the Chacons to object to the priority date proposed by the State for their neighbors' (the Sanchez Family's) surface water irrigation rights under the Sanchez Ditch.

Undersigned Counsel has spoken to Ted J. Trujillo, counsel for the Chacons, who stated that the Chacons do not wish to pursue an objection to the priority date proposed by the State for the Sanchez Family's water rights under the Sanchez Ditch. Accordingly, the Chacons have no remaining priority-based objections.¹

C. On December 11, 2017, an objection was filed by Defendant Ronnie F. Garcia (Subfile No. CHCB-001-0001E, Doc. 11311). That objection has since been withdrawn, and Defendant Ronnie F. Garcia is now in agreement with the State as to priority dates proposed for the Cebolla Subsection. *See Notice of Stipulation and Withdrawal of Objection in Subfile No. CHCB-001-0001E*, Docs. 11364 and 11364-1, filed 07/30/18.

4. There are no other objections to the priority dates proposed by the State for surface water irrigation rights in the Cebolla Subsection, and the Court should enter an Order making a final determination of those priority dates. A proposed form of Order granting this motion is attached hereto as Exhibit 1.

5. Defendant Petra J. Maes, Defendants Charlie and Geralda M. Chacon, and Defendant Ronnie F. Garcia do not oppose this motion.

WHEREFORE, the plaintiff State of New Mexico respectfully requests the Court to enter its Order making a final determination of priority dates in the Cebolla Subsection as proposed in the Order attached hereto as Exhibit 1.

¹ The Chacons still have an outstanding objection to the irrigation water requirements proposed by the State for the Cebolla Subsection, which will be addressed separately, along with the Acéquias Norteñas' objection to same (*see* Doc. 11309, filed 12/11/17).

Respectfully submitted,

/s/Felicity Strachan
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of September, 2018, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Felicity Strachan
FELICITY STRACHAN